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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,993	04/01/2004	Kevin M. Smith	17301	2013
7590	10/05/2004		EXAMINER	
Haverstock Garrett & Roberts Suite 1610 611 Olive St. Louis, MO 63103			TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	M
	10/816,993	SMITH ET AL.	
	Examiner	Art Unit	
	Alicia M Torres	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 4/1/04.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Claim Objections

1. Claim 1 is objected to because of the following informalities: there is lack of antecedent basis for "said element" in line 11. It is unclear as to which element, the ejection element or the rear support element, is being referred to. Appropriate correction is required.
2. Claim 2 is objected to because of the following informalities: "consist" should be changed to —consists—. Appropriate correction is required.

DETAILED ACTION

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olin, as cited by Applicant, in view of Van der Lely, as cited by Applicant.

Olin discloses a round baler of the type having a hydraulic tailgate for releasing a cylindrical bale on to an ejection element, the tailgate and the ejection element each being hydraulically operable by separate piston and cylinder units which are sequentially controlled in parallel by a common pressurized fluid source via a two-way valve sequence.

However, Olin fails to disclose an ejection element pivotally connected at its front proximate end to a rear axle or rear support element of the baler, and therefrom extending rearwardly to its distal end, the element being pivotable between a dump position and a home

position, and the ejection element having a length long enough to hold a dumped bale sufficiently distant from the baler to allow the tailgate to close, while short enough to negate the need to be collapsible or to otherwise require additional adjustment, as per claim 1; and

Wherein the ejection element consists essentially of a ramp member affixed to a cantilever support, which support is connected to the axle, as per claim 2; and

Wherein the ramp member, in the home position, is positioned to receive a discharged bale prior to pivoting to the dump position, as per claim 3.

Van der Lely discloses a baler including an ejection element (13) pivotally connected at its front proximate end to a rear axle or rear support element (16) of the baler, and therefrom extending rearwardly to its distal end, the element (13) being pivotable between a dump position and a home position (see lines in phantom of Figure 1), and the ejection element (13) having a length long enough to hold a dumped bale sufficiently distant from the baler to allow the tailgate (11) to close, while short enough to negate the need to be collapsible or to otherwise require additional adjustment, as per claim 1; and

Wherein the ejection element (13) consists essentially of a ramp member (15) affixed to a cantilever support (14), which support (14) is connected to the axle (16), as per claim 2; and

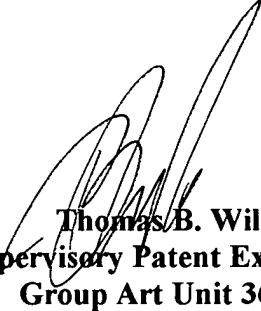
Wherein the ramp member (15), in the home position (shown folded against the baler in Figure 1), is positioned to receive a discharged bale prior to pivoting to the dump position, as per claim 3.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Renaud and Quartaert have been cited as of interest.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
September 29, 2004